

**STATE OF MICHIGAN
MICHIGAN ADMINISTRATIVE HEARING SYSTEM
ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HEALTH AND HUMAN SERVICES**

IN THE MATTER OF:

[REDACTED]

MAHS Reg. No.: 15-016059
Issue No.: ESO
Agency Case No.: [REDACTED]
Hearing Date: November 12, 2015
County: DHHS SSPC Office

ADMINISTRATIVE LAW JUDGE: Lynn M. Ferris

HEARING DECISION

Pursuant to a September 8, 2014, federal lawsuit, the Department of Health and Human Services (Department) issued notices to Medicaid applicants who were potentially denied full Medicaid coverage based on immigration status between January 2014 and May 2015. The notice included information about how to request a hearing. Petitioner filed a request for a hearing; and accordingly, this matter is before the undersigned Administrative Law Judge pursuant to Michigan Administrative Hearing Rules (R 792.10101 – R 792.11903) and the Administrative Procedures Act, 1969 PA 306, as amended, MCL 24.201 *et seq.*

After due notice, a three-way telephone hearing was held on November 12, 2015, from Detroit, Michigan. The Petitioner was represented by [REDACTED], the Petitioner's Authorized Hearing Representative (AHR). Department was represented by [REDACTED], Eligibility Specialist. The AHR also served as translator during the hearing.

ISSUE

Did the Department properly determine Petitioner's immigration status or citizenship when determining Medicaid (MA) eligibility?

FINDINGS OF FACT

The Administrative Law Judge, based on the competent, material, and substantial evidence on the whole record, finds as material fact:

1. On September 4, 2014, Petitioner applied for MA benefits. The Petitioner also sought retroactive benefits for July 2014.
2. On the date of MA application, Petitioner was not a United States citizen but had been in the United States for five years or more and documented permanent residency with his application. The Petitioner's July 2014 MA application met all the eligibility requirements for full Medicaid, which was not contested by the Department.

3. At the hearing, the Department conceded that the Petitioner was eligible for full MA from July 2014 to January 2015.
4. The Department issued a Health Care Coverage Determination Notice in February 2015 finding the Petitioner eligible for ESO from July 1, 2014, through August 31, 2014, and as of September 1, 2014, ineligible as not disabled. This Notice was incorrect.
5. Beginning July 1, 2014, Petitioner's **full-coverage MA case and/or application** was **converted/approved** for Emergency Services Only (ESO) MA coverage or denied MA coverage.
6. On September 9, 2015, the Department issued a notice to the Petitioner indicating he might have been denied full MA coverage based on immigration status between January 2014 and May 2015.
7. On September 14, 2015, the Petitioner's AHR requested a hearing.

CONCLUSIONS OF LAW

Department policies are contained in the Department of Health and Human Services Bridges Administrative Manual (BAM), Department of Health and Human Services Bridges Eligibility Manual (BEM), Department of Health and Human Services Reference Tables Manual (RFT), Department of Health and Human Services Modified Adjusted Gross Income (MAGI) Related Eligibility Manual (MREM), and Department of Health and Human Services Emergency Relief Manual (ERM).

The Medical Assistance (MA) program is established by Title XIX of the Social Security Act, 42 USC 1396-1396w-5; 42 USC 1315; the Affordable Care Act of 2010, the collective term for the Patient Protection and Affordable Care Act, Pub. L. No. 111-148, as amended by the Health Care and Education Reconciliation Act of 2010, Pub. L. No. 111-152; and 42 CFR 430.10-.25. The Department administers the MA program pursuant to 42 CFR 435, MCL 400.10, and MCL 400.105-.112k.

In this case, Petitioner requested a hearing disputing the ESO **MA** for July 2014 only **denial** of full MA coverage. At the hearing, the Department presented Medicaid Eligibility Information for the Petitioner that clearly indicated that Petitioner was deemed eligible for full MA beginning July 1, 2014, through January 31, 2015. Notwithstanding this information, the Department has still not issued a Health Care Coverage Determination Notice confirming full MA Coverage for these months.

To be eligible for full MA coverage a person must be a U.S. citizen or an alien admitted to the U.S. under a specific immigration status. BEM 225 (January 2014), p. 2. An individual who is a permanent resident alien with a class code on the permanent residency card other than RE, AM or AS is eligible for ESO MA coverage for the first five years in the U.S. BEM 225, p. 5, MREM, 3.6. The alien status of each noncitizen must be verified to be eligible for full MA coverage. BEM 225, p.2.

The Department has conceded it erred when it determined that the Petitioner was not eligible for full MA from July 1, 2014, ongoing through January 31, 2015, and that the Health Care Coverage Determination Notice issued by the Department on February 2, 2015, did not correct the MA coverage to reflect full eligibility.

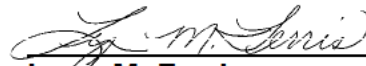
The Administrative Law Judge, based on the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, if any, finds that the Department **did not** properly determine Petitioner's immigration status or citizenship when determining MA eligibility.

DECISION AND ORDER

Accordingly, the Department's determination about MA eligibility based on immigration status is **REVERSED**.

THE DEPARTMENT IS ORDERED TO BEGIN DOING THE FOLLOWING, IN ACCORDANCE WITH DEPARTMENT POLICY AND CONSISTENT WITH THIS HEARING DECISION, WITHIN 10 DAYS OF THE DATE OF MAILING OF THIS DECISION AND ORDER:

1. Redetermine MA eligibility in accordance with Department policy. Re-register, if necessary, the Petitioner's September 4, 2014, application and any retroactive application.
2. The Department shall issue a current Health Care Coverage Determination Notice for full Medicaid coverage covering the period July 1, 2014, through January 31, 2015, as reflected by its eligibility records.
3. Notify Petitioner in writing of the Department's new MA eligibility determination.



Lynn M. Ferris

Administrative Law Judge

for Nick Lyon, Director

Department of Health and Human Services

Date Mailed: **11/13/2015**

LMF/jaf

NOTICE OF APPEAL: A party may appeal this Hearing Decision in the circuit court in the county in which he/she resides, or the circuit court in Ingham County, within 30 days of the receipt date.

cc:

